

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JUL

Gentlemen:

Your application for exemption from Federal income tax under the provisions of Section 501(c)(4) of the Internal Revenue Code has been considered.

The information submitted shows that you were incorporated [REDACTED] under the laws of the State of [REDACTED]. Your purpose, briefly stated, is to serve as an Association of unit owners under the [REDACTED] Ownership Act for those owning certain property located in the Village of [REDACTED], [REDACTED] County, State of [REDACTED] subject to the terms and conditions of the Declaration of Condominium. To exercise exclusive management and control of the common and limited common areas and facilities described in the Declaration. To operate, repair, replace, reconstruct, protect and maintain the common and limited common areas and facilities described in the Declaration.

Your activities consist of maintaining common areas and enforcing covenants for the benefit of all unit owners under the [REDACTED] [REDACTED]. ([REDACTED] Statute)

Each unit owner of the development is a member of the Association and your source of income is derived from membership paid by the unit owners.

Section 501(c)(4) of the code provides for exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.

[REDACTED]

RECEIVED	DATE

Revenue Ruling 74-17 held that an organization formed by unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project, as defined by State statute, with membership assessments paid by unit owners does not qualify for exemption under Section 501(c)(4) of the code.

Revenue Ruling 74-99 held that a homeowner's association to qualify for exemption under Section 501(c)(4) of the code (1) must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental, (2) it must not conduct activities directed to the exterior maintenance of private residences, and (3) the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public.

By virtue of the essential nature and structure of a condominium system of ownership, the rights, duties, privileges, and immunities of the members of an association of unit owners in a condominium property derive from, and are established by, statutory and contractual provisions and are inextricably and compulsorily tied to the owner's acquisition and enjoyment of his property in the condominium. In addition, condominium ownership necessarily involves ownership in common by all condominium unit owners of a great many so-called common areas, the maintenance and care of which necessarily constitutes the provision of private benefits for the unit owners.

In view of the above it is our conclusion that you do not qualify for exemption from Federal income tax as an organization described in Section 501(c)(4) of the code and you are required to file Federal income tax returns, Form 1120.

Section 528 of the Internal Revenue Code, as added in the 1976 tax reform act provides that Homeowners associations, including both condominium management associations and residential real estate management associations, may elect to be treated as tax exempt organizations if an election is made, the association is not taxed on its exempt function income. Please see enclosed publication 588 for information on how to qualify for this election and for the definition of exempt function income.

If you wish to make the election, see instructions on back of Form 1120-H for where and when to file.

If you do not agree with these conclusions, you may request Appeals Office consideration. To do this, you must submit to the District Director within 30 days from the date of this letter, a statement of facts, law, and arguments, in duplicate which will clearly set forth your position. You also must state whether you wish an Appeals Office conference. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met.

[REDACTED]

If we do not hear from you within the time specified, this communication will become our determination in the matter.

Very truly yours,

[REDACTED]
District Director

Enclosures:
Publication 892
Publication 588
Form 1120 H